

Termed

**U.S. District Court
Northern District of Ohio (Youngstown)
CRIMINAL DOCKET FOR CASE #: 4:19-mj-01326-KBB All Defendants**

Case title: United States of America v. Seymour

Date Filed: 10/30/2019

Other court case number: 4:19cr264 USDC Eastern District of Texas

Date Terminated: 11/06/2019

Assigned to: Magistrate Judge
Kathleen B. Burke

Defendant (1)

Austin Seymour

TERMINATED: 11/06/2019

represented by

Jeffrey M. Haupt

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Alliance, OH 44601

330-823-7411

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LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Designation: Retained

James W. Haupt , Jr.

Ste. C

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ATTORNEY TO BE NOTICED

Pending Counts

None

Disposition

Highest Offense Level (Opening)

None

Terminated Counts

None

Disposition

**Highest Offense Level
(Terminated)**

None

Complaints

21:846, 21:841(a)(1) and 2-
Conspiracy to Distribute and
Possess with Intent to Distribute a
Controlled Substance

Disposition

Plaintiff

United States of America

represented by

Damoun Delaviz

Office of the U.S. Attorney – Akron

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 208 Federal Bldg.
 2 South Main Street
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Date Filed	#	Docket Text
10/30/2019		Arrest (Rule 40) of Austin Seymour (1) on 10/30/19. (S,HR) (Entered: 10/30/2019)
10/30/2019	<u>1</u>	Rule 40 Warrant received as to Austin Seymour. (Attachments: # <u>1</u> Eastern District of Texas Indictment)(S,HR) (Entered: 10/30/2019)
10/30/2019		Notice [non-document] as to Austin Seymour (1). Rule 5 Initial Appearance set for 10/30/2019 at 02:30 PM in Courtroom 400 before Magistrate Judge Kathleen B. Burke.(S,HR) (Entered: 10/30/2019)
10/30/2019		Minutes of proceedings [non-document] before Magistrate Judge Kathleen B. Burke. Initial Appearance in Rule 5 Proceedings as to Austin Seymour. AUSA Damoun Delaviz present on behalf of the government. Retained counsel James Haupt, Jr. and Jeffrey Max Haupt were present on behalf of defendant. Defendant waived identity hearing. Waiver executed. Government moved for detention and defendant requested a detention hearing in this district. Detention Hearing set for Wednesday, 11/6/19 at 2:00 pm in Courtroom 400 before Magistrate Judge Kathleen B. Burke. Defendant remanded to the custody of the U.S. Marshal Service pending further proceedings. (Court Reporter – Gina Page; Pretrial Services Officer – Julie Gray). Time: 15 Minutes (S,HR) (Entered: 10/30/2019)
10/30/2019	<u>3</u>	Waiver of Rule 5(c)(3) Identity Hearing by Austin Seymour. (S,HR) (Entered: 10/30/2019)
10/30/2019	<u>4</u>	Order of Temporary Detention as to Austin Seymour. Detention Hearing set for 11/6/2019 at 02:00 PM in Courtroom 400. Magistrate Judge Kathleen B. Burke on 10/30/19. (S,HR) (Entered: 10/30/2019)
11/06/2019	<u>5</u>	Notice of Appearance of Attorney – James W. Haupt, Jr. and J. Max Haupt appearing for Austin Seymour. (Haupt, James) (Entered: 11/06/2019)
11/06/2019		Minutes of proceeding [non-document] before Magistrate Judge Kathleen B. Burke. Detention Hearing in Rule 5 Proceedings as to Austin Seymour (1) held on 11/6/2019. AUSA Damoun Delaviz present on behalf of the government. Attorneys James W. Haupt, Jr. and Jeffrey Max Haupt present on behalf of the defendant. Both parties proffered the Pretrial Services Report. Arguments presented. The government's motion for detention was granted and the defendant was ordered detained. Order of Detention to follow. Defendant remanded to the custody of the U.S. Marshal Service pending transfer to the Eastern District of Texas. (Court Reporter/ECRO – G. Page; Pretrial Services Officer: Julie Gray) Time: 1 hour 5 minutes. (S,HR) (Entered: 11/06/2019)
11/06/2019	<u>6</u>	Order of Detention Pending Trial as to Austin Seymour. Magistrate Judge Kathleen B. Burke on 11/6/19. (S,HR) (Entered: 11/06/2019)
11/06/2019	<u>7</u>	Warrant of Removal to the Eastern District of Texas issued as to Austin Seymour. Magistrate Judge Kathleen B. Burke on 11/6/19. (S,HR) (Entered: 11/06/2019)
11/06/2019		Notice to Eastern District of Texas of a Rule 5 Initial Appearance as to Austin Seymour (1). Your case number is: 4:19CR264. Using your PACER account, you may retrieve the docket sheet and any text-only entry via the case number link. If you require certified copies of any documents, please send a request to ohndml_InterDistrictTransfer@ohnd.uscourts.gov . If you wish to designate a different email address for future transfers, send your request to InterDistrictTransfer_TXND@txnd.uscourts.gov . (S,HR) (Entered: 11/06/2019)

UNITED STATES DISTRICT COURT

for the
Northern District of Ohio

FILED

OCT 30 2019

United States of America

v.

Case No. 5:19MJ1326

AUSTIN SEYMOUR

Charging District's Case No. 4:19cr264 (Jordan)

Defendant

WAIVER OF RULE 5 & 5.1 HEARINGS
(Complaint or Indictment)I understand that I have been charged in another district, the *(name of other court)* _____
Eastern District of Texas

I have been informed of the charges and of my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) production of the warrant, a certified copy of the warrant, or a reliable electronic copy of either;
- (4) a preliminary hearing to determine whether there is probable cause to believe that an offense has been committed, to be held within 14 days of my first appearance if I am in custody and 21 days otherwise, unless I have been indicted beforehand.
- (5) a hearing on any motion by the government for detention;
- (6) request a transfer of the proceedings to this district under Fed. R. Crim. P. 20, to plead guilty.

I agree to waive my right(s) to:

- ☒ an identity hearing and production of the warrant.
- ☐ a preliminary hearing.
- ☐ a detention hearing.
- ☐ an identity hearing, production of the judgment, warrant, and warrant application, and any preliminary or detention hearing to which I may be entitled in this district. I request that my
☐ preliminary hearing and/or ☐ detention hearing be held in the prosecuting district, at a time set by that court.

I consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Date: 10/30/2019


 Defendant's signature


 Signature of defendant's attorney

 AFPD Carlos Warner
 Printed name of defendant's attorney

**UNITED STATES DISTRICT COURT
For the
Northern District of Ohio**

UNITED STATES OF AMERICA)	CASE NO. 5:19MJ1326
)	
)	
v.)	
)	MAGISTRATE KATHLEEN B. BURKE
AUSTIN SEYMOUR)	
)	
Defendant.)	

NOTICE OF APPEARANCE OF COUNSEL

Please take notice that Attorneys, James W. Haupt, Jr. and J. Max Haupt, hereby enter their appearance as co-counsel for the Defendant. Please serve a copy of all notices, correspondence or orders on Attorneys, James W. Haupt, Jr. and J. Max Haupt, who are admitted to practice in this Court, at the following addresses:

Date: November 5, 2019

James w. Haupt, Jr. (0084212)
437 Market Ave. N.
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Telephone: 330-455-5206
Facsimile: 330-455-5200
E-mail: jameshauptjr@gmail.com

J. Max Haupt
526 E. Main St.
Alliance, OH 44601
Telephone: 330-821-2516
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E-mail: hauptlawoffice@gmail.com

Respectfully submitted,

/s/ James W. Haupt, Jr.

JAMES W. HAUPT JR. - #0084212

THE LAW OFFICES OF James W. HAUPT

Attorney for Defendant

437 Market Ave. N.

Canton, Ohio 44702

PH. 330-455-5206

FAX 330-455-5200

/s/ J. Max Haupt

J. MAX HAUPT - #0088112

ATTORNEY JEFFREY MAX HAUPT, LTD

Attorney for Defendant

526 E. Main St.

Alliance, Ohio 44601

PH. 330-821-2516

FAX 330-821-5521

CERTIFICATE OF SERVICE

I hereby certify that on November 5, 2019, I electronically filed the foregoing Notice of Appearance on Behalf of Defendant with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following at their e-mail address on file with the Court:

Damoun Delaviz

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Northern District of Ohio

208 Federal Bldg.

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330-761-0530

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/s/ James W. Haupt, Jr.

JAMES W. HAUPT JR. - #0084212

Attorney for Defendant

/s/ J. Max Haupt

J. Max Haupt - #0088112
Attorney for Defendant

UNITED STATES DISTRICT COURT

for the

Northern District of Ohio

United States of America

v.

AUSTIN SEYMOUR

Defendant

Case No. 5:19MJ1326

ORDER OF DETENTION PENDING TRIAL

Part I - Eligibility for Detention

Upon the

- ☒ Motion of the Government attorney pursuant to 18 U.S.C. § 3142(f)(1), or
☐ Motion of the Government or Court's own motion pursuant to 18 U.S.C. § 3142(f)(2),

the Court held a detention hearing and found that detention is warranted. This order sets forth the Court's findings of fact and conclusions of law, as required by 18 U.S.C. § 3142(i), in addition to any other findings made at the hearing.

Part II - Findings of Fact and Law as to Presumptions under § 3142(e)

- ☐ **A. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(2)** (*previous violator*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of any other person and the community because the following conditions have been met:
- ☐ **(1)** the defendant is charged with one of the following crimes described in 18 U.S.C. § 3142(f)(1):
 - ☐ **(a)** a crime of violence, a violation of 18 U.S.C. § 1591, or an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed; **or**
 - ☐ **(b)** an offense for which the maximum sentence is life imprisonment or death; **or**
 - ☐ **(c)** an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508); **or**
 - ☐ **(d)** any felony if such person has been convicted of two or more offenses described in subparagraphs (a) through (c) of this paragraph, or two or more State or local offenses that would have been offenses described in subparagraphs (a) through (c) of this paragraph if a circumstance giving rise to Federal jurisdiction had existed, or a combination of such offenses; **or**
 - ☐ **(e)** any felony that is not otherwise a crime of violence but involves:
 - (i)** a minor victim; **(ii)** the possession of a firearm or destructive device (as defined in 18 U.S.C. § 921);
 - (iii)** any other dangerous weapon; or **(iv)** a failure to register under 18 U.S.C. § 2250; **and**
 - ☐ **(2)** the defendant has previously been convicted of a Federal offense that is described in 18 U.S.C. § 3142(f)(1), or of a State or local offense that would have been such an offense if a circumstance giving rise to Federal jurisdiction had existed; **and**
 - ☐ **(3)** the offense described in paragraph (2) above for which the defendant has been convicted was committed while the defendant was on release pending trial for a Federal, State, or local offense; **and**
 - ☐ **(4)** a period of not more than five years has elapsed since the date of conviction, or the release of the defendant from imprisonment, for the offense described in paragraph (2) above, whichever is later.

☒ **B. Rebuttable Presumption Arises Under 18 U.S.C. § 3142(e)(3)** (*narcotics, firearm, other offenses*): There is a rebuttable presumption that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community because there is probable cause to believe that the defendant committed one or more of the following offenses:

- ☒ (1) an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Controlled Substances Act (21 U.S.C. §§ 801-904), the Controlled Substances Import and Export Act (21 U.S.C. §§ 951-971), or Chapter 705 of Title 46, U.S.C. (46 U.S.C. §§ 70501-70508);
- ☐ (2) an offense under 18 U.S.C. §§ 924(c), 956(a), or 2332b;
- ☐ (3) an offense listed in 18 U.S.C. § 2332b(g)(5)(B) for which a maximum term of imprisonment of 10 years or more is prescribed;
- ☐ (4) an offense under Chapter 77 of Title 18, U.S.C. (18 U.S.C. §§ 1581-1597) for which a maximum term of imprisonment of 20 years or more is prescribed; **or**
- ☐ (5) an offense involving a minor victim under 18 U.S.C. §§ 1201, 1591, 2241, 2242, 2244(a)(1), 2245, 2251, 2251A, 2252(a)(1), 2252(a)(2), 2252(a)(3), 2252A(a)(1), 2252A(a)(2), 2252A(a)(3), 2252A(a)(4), 2260, 2421, 2422, 2423, or 2425.

☒ **C. Conclusions Regarding Applicability of Any Presumption Established Above**

- ☒ The defendant has not introduced sufficient evidence to rebut the presumption above, and detention is ordered on that basis. (*Part III need not be completed.*)

OR

- ☐ The defendant has presented evidence sufficient to rebut the presumption, but after considering the presumption and the other factors discussed below, detention is warranted.

Part III - Analysis and Statement of the Reasons for Detention

After considering the factors set forth in 18 U.S.C. § 3142(g) and the information presented at the detention hearing, the Court concludes that the defendant must be detained pending trial because the Government has proven:

- ☒ By clear and convincing evidence that no condition or combination of conditions of release will reasonably assure the safety of any other person and the community.
- ☒ By a preponderance of evidence that no condition or combination of conditions of release will reasonably assure the defendant's appearance as required.

In addition to any findings made on the record at the hearing, the reasons for detention include the following:

- ☒ Weight of evidence against the defendant is strong
- ☒ Subject to lengthy period of incarceration if convicted
- ☐ Prior criminal history
- ☐ Participation in criminal activity while on probation, parole, or supervision
- ☐ History of violence or use of weapons
- ☒ History of alcohol or substance abuse
- ☒ Lack of stable employment
- ☐ Lack of stable residence
- ☐ Lack of financially responsible sureties

- ☐ Lack of significant community or family ties to this district
- ☐ Significant family or other ties outside the United States
- ☐ Lack of legal status in the United States
- ☐ Subject to removal or deportation after serving any period of incarceration
- ☐ Prior failure to appear in court as ordered
- ☐ Prior attempt(s) to evade law enforcement
- ☐ Use of alias(es) or false documents
- ☐ Background information unknown or unverified
- ☐ Prior violations of probation, parole, or supervised release

OTHER REASONS OR FURTHER EXPLANATION:

Part IV - Directions Regarding Detention

The defendant is remanded to the custody of the Attorney General or to the Attorney General's designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant must be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility must deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

Date: 11/06/2019

s/KATHLEEN B. BURKE, U.S. Magistrate Judge

United States Magistrate Judge

UNITED STATES DISTRICT COURT

for the

Northern District of Ohio

United States of America

v.

AUSTIN SEYMOUR

Defendant

Case No. 5:19MJ1326

Charging District's

Case No. 4:19CR264

COMMITMENT TO ANOTHER DISTRICT

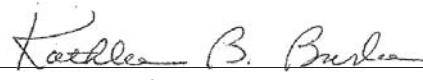
The defendant has been ordered to appear in the Eastern District of Texas,
(if applicable) _____ division. The defendant may need an interpreter for this language:
_____.

The defendant: ☒ will retain an attorney.
☐ is requesting court-appointed counsel.

The defendant remains in custody after the initial appearance.

IT IS ORDERED: The United States marshal must transport the defendant, together with a copy of this order, to the charging district and deliver the defendant to the United States marshal for that district, or to another officer authorized to receive the defendant. The marshal or officer in the charging district should immediately notify the United States attorney and the clerk of court for that district of the defendant's arrival so that further proceedings may be promptly scheduled. The clerk of this district must promptly transmit the papers and any bail to the charging district.

Date: 11/06/2019



Judge's signature

KATHLEEN B. BURKE, U.S. Magistrate Judge

Printed name and title